United Nations A/C.3/61/SR.36

General Assembly
Sixty-first session

Official Records

Distr.: General
22 November 2006

Original: English

Third Committee

Summary record of the 36th meeting
Held at Headquarters, New York, on Tuesday, 2 November 2006, at 10 a.m.

Chairman: Mr. Al Bayati ..... (Iraq)

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The meeting was called to order at 10.50 a.m.

Agenda item 67: Promotion and protection of human rights (*continued*) (A/61/36, 97, 220 and 280)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/61/276, 349, 360, 369 and Corr.1, 374, 469, 470, 475, 489, 504 and 526; A/C.3/61/6 and 7)

1. **Mr. Okola** (Independent Expert on the situation of human rights in Burundi), introducing his interim report on the situation of human rights in Burundi (A/61/360), expressed gratitude to the Government of Burundi for its full support and cooperation during his missions. He said that he had been able to meet with everyone — from Government ministers to ordinary people — whom he considered necessary for the proper discharge of his mandate. He was grateful for the important contribution of religious leaders and civil society to his work and noted in particular the involvement of Japan in the peace consolidation process.

2. The Government had made commendable strides in the area of social and economic rights, including the establishment of a free primary education programme. The programme was working fairly well despite problems such as a shortage of teachers and educational material. The Government had also begun a programme to provide free health care for expectant mothers and children under the age of five. Unfortunately, however, it was badly underfunded. He therefore appealed to the international community for its support.

3. The human rights situation in Burundi remained an area of great concern. Various human rights violations were reported on a daily basis and a culture of impunity prevailed. The situation was exacerbated by the presence of light weapons among civilians, widespread poverty, a failure to respect national legal procedures and intolerance of Government critics.

4. There was an atmosphere of anxiety in Burundi, which contrasted with the spirit of joy and optimism that had followed the democratic elections in 2005. Tensions had escalated between the Government and the ruling party, on the one hand, and opposition parties, civil society and media, on the other, reaching a crisis point following the arrest and detention in July 2006 of the former President and Vice-President on charges of planning to overthrow the Government. The people with whom he had spoken widely perceived those charges as an attempt by the Government to suppress the opposition and to settle old political scores. To date, the Government had failed to offer any credible evidence to implicate those who were being detained and had used legal procedures to keep the suspects in custody even after the Supreme Court had ruled that they should be released.

5. He had interviewed the detainees, each of whom had pleaded innocent to the charges against them. Three of them, including the former transitional Vice-President, had claimed to have been tortured and had shown scars on various parts of their bodies, together with medical reports and photographs taken after their arrest and detention to support their claim. Furthermore, the Minister in charge of human rights and gender issues had stated that they had indeed been tortured. The perpetrators of the abuse were agents of the Government's intelligence arm, the Service national de renseignement, and although their identities had been disclosed to the Government, no action had been taken against them. One of the detainees, a lawyer for two of the accused persons, had been arrested owing to an apparent attempt to silence the local bar, after he had written to the authorities to protest against the alleged torture of his clients.

6. The increasing intolerance of the Government towards members of opposition parties was threatening freedom of expression. Intimidation and harassment of the independent media had increased following critical reporting on the allegations of a coup attempt. Several journalists had reported receiving death threats, one of whom had felt compelled to flee the country, and their movements appeared to be monitored by intelligence agents.

7. During the first half of 2006, human rights observers had reported that 53 persons had been killed throughout the country, mostly by State agents. He had visited Muyinga Province during his visit, where there had been reports of summary executions of at least 26

persons by intelligence and military personnel in July 2006. The victims had been arrested and held in illegal places of detention and subsequently executed. Four of them had been tied together and suffered wounds on various parts of the body indicating torture. The matter had come to light only when a local NGO had been informed of the killing by local residents who had discovered the bodies floating in a river. Three persons had been arrested, including the director of the local intelligence service. The Government had appointed a commission of inquiry to look into the case; its report was still pending.

8. Full peace could not be achieved in Burundi without a full and frank examination of the causes of the conflicts which had characterized the history of the country since independence. While the Government seemed to support the establishment of a truth and reconciliation commission, it did not appear ready to deal with the question of justice for those accused of serious crimes. Despite some improvements in the political process following the 2005 elections, there was a lack of dialogue between the Government and ruling party, on the one hand, and civil society and the opposition, on the other, which was leading to the further polarization of the country and increasing the chances for renewed conflict. The international community must remain engaged in promoting peace and stability in Burundi.

9. He urged the Government to expedite the trial of those accused of plotting a coup and to speed up the process of establishing appropriate transitional justice mechanisms. He also called on it to show tolerance towards its critics. He encouraged the Government to expand its commendable educational and health programmes to cover every poor person. Lastly, he appealed to the international community to increase its support for the justice system in Burundi, particularly regarding the establishment of transitional justice mechanisms. There was a need for international donors to increase their humanitarian and development assistance and to begin the process of disbursing funds pledged for the reconstruction of Burundi.

10. **Mr. Nkingiye** (Burundi) said that the report expressed some views which his delegation shared and others which it did not. His Government had come a long way in the area of human rights. Burundi had experienced human rights violations for more than 40 years, including the assassination of a President and the killing of deputies, senators and entire populations. There had been a number of reactions by people who sought to combat such gross human rights violations and to establish the rule of law in Burundi.

11. Following the report there had been considerable improvements in the area of human rights. His Government stood ready to work closely with the Independent Expert to make respect for human rights a lasting reality in Burundi. Much remained to be done. It was committed to ensuring that issues concerning national reconciliation, expropriation and the problem of impunity referred to by the Independent Expert were addressed, and it was resolved to enable the justice system to carry out its work with respect to all persons accused of human rights violations.

12. He called for the understanding and support of the international community in his Government's current efforts to promote national reconciliation and improve the human rights situation.

13. **Mr. Jokinen** (Finland), speaking on behalf of the European Union, the acceding countries and the European Free Trade Association countries members of the European Economic Area, welcomed the report of the Independent Expert and the cooperative relations established with the Burundian authorities. The report had noted the successful holding of the elections and the hopeful political climate. For the Government of Burundi, those hopes translated into high expectations. The European Union therefore noted with concern the information received from the Government regarding the preparation of a coup d'état in July 2006.

14. The assurances by the Government that the judicial investigations currently under way on the matter would be conducted in strict compliance with legal procedures and human rights were encouraging. Nevertheless, some concerns with respect to procedural guarantees, alleged torture and freedom of the press continued to be borne out by events; he trusted that the Independent Expert would continue to follow developments in those areas. The European Union would like to hear the views of the Independent Expert on the role of the transitional justice mechanisms referred to in the report (A/61/360), particularly the special tribunal, in strengthening the judicial system and fighting impunity.

15. **Mr. Jølle** (Norway), commending the Independent Expert for his very informative report, noted that it covered a period during which Burundi had embarked on efforts to re-establish democracy.

Even in the short time that had passed since the finalization of the report there had been very positive developments in Burundi, including the signing of the ceasefire agreement between the Government and the Forces nationales pour la libération (FNL). He would like to hear the views of the Independent Expert on the impact of those recent developments on the human rights situation in Burundi. He would also like to know whether the Independent Expert considered that the establishment of a United Nations integrated office in Burundi in 2007 would have a positive effect on his work, including the coordination of efforts with the Government and among the relevant human rights partners.

16. **Mr. Okola** (Independent Expert on the situation of human rights in Burundi), responding to some of the concerns raised, said that while it was true that Burundi had made considerable progress in the short amount of time since the establishment of the new Government, it seemed that the Government took action only when under external pressure to do so and needed constant reminding in that regard. For example, it had taken considerable pressure from human rights actors in particular to persuade the Government to react to the events that had taken place in Muyinga. The Government must be asked to justify its claim of mending its ways. The special tribunal that should have been constituted immediately had never come into being. From his broad consultations on the matter of reconciliation, it seemed that the Government had shown little support for the establishment of that tribunal and it had not yet proposed a time frame for the establishment of a commission, thereby allowing the culture of impunity to continue and constraining the enjoyment of human rights in Burundi.

17. A spirit of constructive dialogue and engagement between Burundi and the international community was needed in order to help Burundi in its reconstruction efforts, to ensure that the people of Burundi could discern the beneficial effects on their lives of choosing peace over hostilities and to give them reason not to revert back to their old ways.

18. It was encouraging that the representative of Burundi had expressed his Government's willingness to continue cooperating with the Independent Expert. However, in response to questions from Finland and Norway, he expressed disquiet about the discernible tendency of the current Government to consider everyone as the enemy and its use of illegal questioning methods when arresting and detaining alleged offenders. Another concern was that, in spite of the opportunities the Government had been given to comply with the decision handed down by the Supreme Court to release given individuals, it had used legal manoeuvres to keep them in detention. The procedural guarantees that the Government claimed for those individuals appeared not to be applicable. It was not enough to merely identify the root cause of the problems Burundi had faced; it was imperative for justice to function properly and for special chambers to be set up as independent mechanisms. Those measures would strengthen the judicial system by demonstrating how justice should be dispensed.

19. The Agreement on Principles towards Lasting Peace, Security and Stability between FNL and the Government was a positive development, as it marked the return of peace to Burundi. However, that peace was still fragile as it depended on the Government's implementation not only of that agreement but of the Arusha Peace Agreement as well. Many Burundians wondered why, under the Arusha Agreement, only persons belonging to the current Government were given provisional release.

20. He appreciated the work of the United Nations integrated office in Burundi, under which many attempts were being made to address the issue of human rights at the grass-roots level, including by providing human rights training to security agents and soldiers, and to replace the casual attitude that prevailed in Burundi with regard to sexual and gender-related offences.

21. **The Chairman**, speaking with reference to agenda item 68, recalled the Committee's discussion on the question of inviting the President of the Human Rights Council to address the Committee. If he heard no objection he would take it that the Committee indeed wished to do so.

22. *It was so decided.*

23. After a procedural discussion in which **Mr. Jokinen** (Finland), **Mr. Berruga** (Mexico), **Mr. Makanga** (Gabon) and **Mr. Cumberbach Miguén** (Cuba) took part, **the Chairman** said that the Committee had agreed to resume its discussion of agenda item 68 the following week. He added that no decision had yet been taken as to whether the President of the Human Rights Council would address the plenary Assembly.

The meeting rose at noon.